

Brussels, 20 May 2020

Mr. Nicolas Schmit
Commissioner for Jobs & Social Rights
European Commission

Sent by e-mail to: CAB-SCHMIT-ARCHIVES@ec.europa.eu

Anticipating and managing the COVID-19 crisis impact on jobs and workplaces: Swift action needed to enforce rights to worker involvement

Dear Commissioner Schmit,

Two months after the COVID-19 health crisis hit the world and thousands lost their lives, European workers must now face the massive social and economic consequences brought by the pandemic. Despite the unprecedented measures taken to cushion the effect of lockdown on jobs and companies, the economic forecast depicts the most worrying picture. According to the European Commission, the EU's GDP would shrink by 7.4% this year. The unemployment rate would increase from 6.7% to 9%.

In absolute terms, 5.2 million workers would lose their jobs this year, bringing the number of unemployed to 19.6 million, an increase of 36%. Bad news about dramatic restructuring plans and risks of more bankruptcies are mushrooming in all sectors, with new cases reported daily. Major airline companies announced their intention to axe tens of thousands of jobs already: up to 12,000 at British Airways; + 10,000 at Lufthansa, 5,000 at Scandinavian Airlines, 3,000 at Ryanair, etc. As a spill-over effect, the aerospace sector reacted with news about plans for massive dismissals: 13,000 jobs are to be cut at GE Aviation, and 8,000 at Rolls Royce, while Airbus foresees to cut a third of its production leading to deep job losses. Before the crisis, the hospitality-tourism sector employed 12 million workers and represented 10% of the EU's GDP. According to the World Travel & Tourism Council, an estimated 64 million jobs risk being lost. While the impact on jobs in the construction and woodworking sectors cannot be fully estimated yet, massive restructurings are already expected. Public service workers, who have been at the frontline of the fight against the pandemic and suffered direct consequences of the lack of proper information and consultation including on health and safety, are not immune to the impact the crisis will have across a wide range of public sector activities.

As you rightly stated, "we can only overcome the crisis if we do it together". On behalf of the 45 million European workers we represent, we are calling on you to ensure that social dialogue in the workplace, including collective bargaining and worker involvement, which so well demonstrated its worth during the early phases of the crisis, plays its full part. Information and consultation of workers on plans which may affect their health, their working conditions and their jobs must take place, before any decision is finalised, through dialogue with trade union representatives all over Europe from the shop floor to management and corporate boardrooms (if any). This is a necessary condition for the COVID-19 related restructurings to be properly anticipated and managed in a socially responsible way. Workers' rights to information, consultation and participation stemming from EU and national law must, at the

very least, be enforced and complied with¹. Implementing the EU social partners' agreement on information and consultation rights for workers and civil servants in central government administrations by a Directive has become all the more urgent.

Unfortunately, what we see in practice is a very limited involvement of worker and trade union representatives in strategic decision-making, if any. Using the excuse of travel ban and social distancing, as well as that of the time constraint associated with the COVID-19 crisis, some employers are simply calling off meetings and talks on plans about the future of jobs and working conditions with national bodies of worker representation and European-level Works Councils, and making unilateral decisions. Some management representatives are pretending that the socio-economic impact of the global pandemic on the company is not a matter of information and consultation of the European Works Councils either because "consequences of a health crisis" is not listed in the EWC agreement as a topic for consultation, or because it is not deemed of a "transnational nature" due to the varying responses provided by Member States to the crisis. Reforms of labour law conducted in some countries prior to the COVID-19 crisis have already considerably weakened worker representatives' ability to engage into genuine dialogue with management to deal with critical cases.

We have repeatedly warned the European Commission about both national and European rights for worker information, consultation and participation not being complied with in accordance with the spirit and letter of the European Directives, and about the persisting legal hindrances for workers to enforce their rights before the courts. We, together with the European Parliament², repeatedly stressed the lack of proper EU legal instruments to anticipate and manage restructurings, both in the public and the private sectors. Assessments run by the European Commission itself concluded to the deficiencies in how companies meet their obligation to inform and consult worker representatives before a decision is made³, and to the inappropriate response provided by existing EU instruments⁴.

At one of the most critical times for European workers, their workplace representatives must – both at the national and the European level, and before any decision is taken – have:

- timely access to meaningful and comprehensive up-to-date information about the likely impact of the COVID-19 crisis on the company economic performance, on the jobs and working conditions;
- enough time and resources to run in-depth assessment of the information provided with the support of economic/financial experts to work on alternatives to redundancies, closures, and any other measures which would negatively impact workers' interests;
- the genuine opportunity to discuss those alternatives with real decision-makers, including top management and board members (if any), who must provide a motivated response to the proposed alternatives and justification for the final decision which will be made;
- the guarantee that non-compliance with information, consultation and participation obligations warrant deterrent sanctions, i.e. the suspension of the management decision until workers' rights are properly respected.

¹ Including, with regard to the European framework: Directive 98/59/EC on collective redundancies, Directive 2001/23/EC on transfers of undertakings, Directive 2002/14/EC on a general framework for information and consultation, Directive 2004/25/EC on takeover bids, Directive 2009/38/EC on European Works Councils, Directive 2001/86/EC on employee involvement in companies under a European Company Statute.

² 2013 European Parliament resolution on information and consultation of workers, anticipation, and management of restructuring (known as the Cercas report).

³ See the evaluation study on the implementation of the EWC Directive released in March 2016, and the corresponding Communication (COM (2018)292 final).

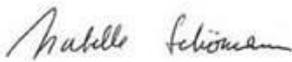
⁴ See the study on the application of the EU Quality framework for anticipation of change and restructuring released in 2018.

We believe it is no longer time for exchanging good practices, but for the European Commission to deliver concrete and rapid actions to guarantee the effective enforcement of EU workers' rights to be informed, consulted and to participate in decision-making before any decision is adopted. We certainly look forward to the initiatives the European Commission will shortly undertake to implement the corresponding principle 8 of the European Pillar of Social Rights. Much more urgently needed though is for the European Commission to publicly reaffirm that the socio-economic impact of the COVID-19 crisis on jobs, working conditions, companies and public services sparks the obligation for management to launch national and transnational information and consultation processes with worker representatives at the earliest convenience. Time is running short and we insist on the urgency of the situation: the COVID-19 related massive restructuring plans have already started. Timely and quality social dialogue in the workplace remains the only way out of the COVID-19 crisis in a socially responsible manner.

We would welcome the opportunity to meet you in the next two weeks to discuss the initiatives you could swiftly undertake in this regard.

We look forward to hearing from you.

Yours sincerely,



Isabelle Schömann
ETUC
Confederal Secretary



Luc Triangle
industriAll Europe
General Secretary



Oliver Röthig
UNI-Europa
Regional
Secretary



Kristjan Bragason
EFFAT
General Secretary



Jan Willem Goudriaan
EPSU
General Secretary



Livia Spera
ETF
Acting General
Secretary



Tom Deleu
EFBWW
General
Secretary